

Solutions, Inc. ("Citizens First"), a licensed mortgage broker. (Affidavit of Sampson, ¶ 4). As part of its examination, Ms. Cynthia Rumph, the president and 100% owner of Citizens First, completed the Officer's Questionnaire on behalf of Citizens First. (Affidavit of Sampson, ¶4; Exhibit E).

2.

During the examination, the Department's examiner reviewed the loan file of James Neal at Citizens First's place of business. In the loan file, the Department's examiner discovered a settlement statement for the purchase of property located at 168 Governors Drive, Forest Park, Georgia 30297. (Affidavit of Sampson, ¶ 5). The settlement statement indicates that Citizens First was compensated as a mortgage broker on Mr. Neal's loan. (Exhibit C, line 812). However, as indicated on the settlement statement, Shedonna Daniel was paid a \$550.00 "processing fee" related to Mr. Neal's loan application. (Exhibit C, line 804). In addition to the settlement statement, Mr. Neal's loan file contained a completed "broker fee sheet" which details costs incurred prior to closing. (Affidavit of Sampson, ¶ 5). The "broker fee sheet" identifies Citizens First as the mortgage broker and reveals that Ms. Daniel was to be paid a processing fee of \$550.00 at closing. (Exhibit D).

3.

Shedonna Daniel brokered Mr. Neal's loan by processing it. (Exhibit C). She was not employed by Citizens First at the time Mr. Neal's loan was processed. (Exhibit E., p. 4-15). Nor has she ever been licensed or registered with the Department as a mortgage broker or mortgage lender. (Affidavit of Shelley, ¶ 4).

4.

During the examination, the Department's examiner reviewed the loan file of Teadric

Roman Cummings at Citizens First's place of business. In the loan file, the Department's examiner discovered the loan application for the property located at 8275 Englewood Trail, Riverdale, Georgia 30274. (Affidavit of Sampson, ¶ 6; Exhibit F). The Department's examiner also discovered in Mr. Cummings' file a settlement statement from the closing of the loan. (Affidavit of Sampson, ¶ 6; Exhibit I). The settlement statement indicates that Citizens First was paid a processing fee of \$500.00 related to Mr. Cummings' loan. (Exhibit I).

5.

Also in Mr. Cummings' loan file, the Department's examiner discovered a Request for Verification of Employment. The document indicates that it was sent to Mr. Cummings' employer by Eric Ward at Citizens First. (Affidavit of Sampson, ¶ 6; Exhibit G). The Department's examiner also discovered in Mr. Cummings' loan file a Request for Appraisal. The Request for Appraisal indicates that it was issued by Eric Ward at Citizens First. (Affidavit of Sampson, ¶ 6; Exhibit H). Freedom Mortgage Corporation funded Mr. Cummings' loan on July 2, 2007. (Exhibit I).

6.

Eric Ward brokered Mr. Cummings' loan by issuing the Request for Verification of Employment as well as the Request for Appraisal in connection with the funding of Ms. Cummings' loan. (Exhibits G and H). He was not employed by Citizens First at the time he engaged in these activities. (Exhibit E, p. 4-15). Nor was he licensed or registered with the Department as a mortgage broker or mortgage lender. (Affidavit of Shelley, ¶ 4).

7.

During the examination, the Department's examiner reviewed the loan file of Revell Johnson at Citizens First's place of business. In the loan file, the Department's examiner

discovered a loan application for the purchase of property located at 3377 Ardley Road, Atlanta, Georgia 30311. (Affidavit of Sampson, ¶ 7; Exhibit J). Mr. Johnson's loan application indicates that it was taken by Calvin Wheeler on behalf of Citizens First, on March 22, 2009. (Exhibit J).

8.

Calvin Wheeler brokered the loan for Revell Johnson by taking Mr. Johnson's loan application. Calvin Wheeler was not employed by Citizens First as a loan officer at the time he took Mr. Johnson's loan application. In fact, his employment with Citizens First began on April 8, 2009.² Although Mr. Johnson's loan application indicates that Calvin Wheeler was employed by Citizens First, the loan application was taken before Mr. Wheeler's employment with Citizens First began. (Exhibits E, p. 4-15 and J). Furthermore, Calvin Wheeler is not licensed or registered with the Department as a mortgage broker or mortgage lender. (Affidavit of Shelley, ¶ 4).

9.

On June 11, 2009, the Georgia Department of Banking and Finance ("Department") issued a Notice of Intent to Revoke Annual License to Citizens First and an Order to Cease and Desist to Cynthia Rumph. (Exhibits A to the respective summary determination motions). The Petitioners timely requested a hearing in response to the Notice of Intent to Revoke Annual License and the Order to Cease and Desist. (Exhibits B to the respective summary determination motions).

Conclusions of Law

1.

On motion for summary determination, the moving party must show by supporting affidavits or other probative evidence that there is no genuine issue of material fact for determination. Ga. Comp. R. & Regs. r. 616-1-2-.15(1). When a motion for summary

² Petitioners acknowledge that Mr. Wheeler was working for First Commitment Mortgage through March 31, 2009. (Exhibits B to the respective summary determination motions).

determination is made and supported, a party opposing the motion may not rest upon mere allegations or denials, but must show by supporting affidavit(s) or other probative evidence that there is a genuine issue of material fact for determination. Ga. Comp. R. & Regs. r. 616-1-2-.15(3). In this matter, Petitioners have failed to file any response to Respondent's motions.

Violation of O.C.G.A. § 7-1-1002

2.

The Department asserts that Citizens First and Cynthia Rumph violated Georgia Code section 7-1-1002 by directly or indirectly controlling unlicensed mortgage brokers. Section 7-1-1002 provides, in pertinent part:

(a) On and after July 1, 1993, it is prohibited for any person to transact business in this state directly or indirectly as a mortgage broker or a mortgage lender unless such person:

- (1) Is licensed or registered as such by the department;
- (2) Is a person exempted from the licensing or registration requirements pursuant to Code Section 7-1-1001; or
- (3) In the case of an employee of a mortgage broker or mortgage lender, such person has qualified to be relieved of the necessity for a license under the employee exemption in paragraph (11) of Code Section 7-1-1001.

* * *

(c) On or after July 1, 1996, every person who directly or indirectly controls a person who violates subsection (a) or (b) of this Code section, every general partner, executive officer, joint venturer, or director of such person, and every person occupying a similar status or performing similar functions as such person violates with and to the same extent as such person, unless the person whose violation arises under this subsection sustains the burden of proof that he or she did not know and, in the exercise of reasonable care, could not have known of the existence of the facts by reason of which the original violation is alleged to exist.

O.C.G.A. § 7-1-1002 (2003).³

³ Effective July 1, 2009, the law related to conducting business without a license was modified. Compare O.C.G.A. § 7-1-1002 (2009) with 2003 Ga. Laws 843, 852-53.

3.

The Georgia Residential Mortgage Act defines “mortgage broker” to include “any person who directly or indirectly solicits, processes, places, or negotiates mortgage loans for others.” O.C.G.A. § 7-1-1000 (11) (1996).⁴ “Person” is defined in the Georgia Residential Mortgage Act as “any individual, sole proprietorship, corporation, limited liability company, partnership, trust, or any other group of individuals, however organized.” O.C.G.A. § 7-1-1000(14) (1996) (emphasis added).⁵ Thus, pursuant to section 7-1-1002(a) (2003), a natural person is prohibited from processing, soliciting or negotiating mortgage loans unless the natural person is licensed or is exempted from the licensing requirement. In the event a company directly or indirectly controls a person who violates section 7-1-1002(a) (2003), the company is also guilty of violating section 7-1-1002(a) (2003). O.C.G.A. § 7-1-1002(c) (2003).

4.

Pursuant to section 7-1-1002(a)(3) (2003), employees of licensed mortgage brokers and mortgage lenders can work in the mortgage industry without being licensed individually, if they satisfy the employee exemption set forth in section 7-1-1001(11) (2003).⁶ Section 7-1-1001(11) (2003) states that “[a] natural person employed by a licensed mortgage broker [or] a licensed mortgage lender ... when acting within the scope of employment and under the supervision of the licensee ... as an employee” is exempted from the licensure requirement of the Georgia Residential Mortgage Act. O.C.G.A. § 7-1-1001(11) (2003). However, in order for this

⁴ Effective July 1, 2009, the definition of “mortgage broker” was re-codified. Compare O.C.G.A. § 7-1-1000 (19) with 1996 Ga. Laws 848, 857.

⁵ Effective July 1, 2009, the definition of “person” was re-codified. Compare O.C.G.A. § 7-1-1000(25) with 1996 Ga. Laws 848, 858.

⁶ Effective July 1, 2009, the law related to exemptions for employees was modified and recodified. Compare O.C.G.A. § 7-1-1001(a)(14) (2009) with 2003 Ga. Laws 843, 852.

exemption to be effective, a natural person “must be employed by only one such employer.” Id.

Department Rule 80-11-4-.03(2) provides, in pertinent part:

The exemption from licensing provided pursuant to O.C.G.A. § 7-1-1001(11)⁷ to an employee of a licensee or exemptee applies only to natural persons who meet all of the following criteria:

- (a) An employee must be employed by just one licensee or exemptee and must work exclusively for that person;
- (b) An employee may not solicit, process, or place loans for anyone else while claiming the exemption;
- (c) An employee’s procedures and activities must be supervised by the licensee or exemptee on a daily basis, and the licensee or exemptee is responsible for the actions of such employees. . . .

Ga. Comp. R. & Regs. r. 80-11-4-.03(2) (Emphasis added). In short, a licensed mortgage company can employ unlicensed individuals, without running afoul of the prohibition against unlicensed persons transacting mortgage business, as long as the individual satisfies the requirements set forth in section 7-1-1001(11) (2003), as clarified by Department Rule 80-11-4-.03(2).

**Citizens First Violated Georgia Code Section 7-1-1002 (2003)
by Allowing Shedonna Daniel to Broker a Mortgage Loan.**

5.

A part of the examination, the Department requested that Cynthia Rumph, the president and 100 % owner of Citizens First, complete the Officer’s Questionnaire. In the Officer’s Questionnaire provided to the Department, Shedonna Daniel is not listed as an employee of Citizens First. Although not listed as an employee, Shedonna Daniel acted as a mortgage broker on behalf of Citizens First by processing Mr. Neal’s loan application. Furthermore, Shedonna Daniel is not licensed or registered with the Department as a mortgage broker or mortgage lender. In fact, Shedonna Daniel has never been individually licensed or registered with the Department as

⁷ Effective September 4, 2007, this portion of the rule was amended to reflect that the employee exemption set forth in O.C.G.A. § 7-1-1001(11) (2003) had been recodified at O.C.G.A. § 7-1-1001(14).

a mortgage lender or mortgage broker. An individual or entity that processes a mortgage loan satisfies the definition of mortgage broker. O.C.G.A. § 7-1-1000(11) (1996). Shedonna Daniel processed the loan application for Mr. Neal on behalf of Citizens First.

6.

Shedonna Daniel does not satisfy any of the exemptions from licensure contained in Georgia Code section 7-1-1001 (2003). Pursuant to section 7-1-1001(11) (2003), employees of licensees, such as Citizens First, are exempt from licensure. However, Citizens First has informed the Department that Shedonna Daniel was not an employee of Citizens First, and, therefore, this exception does not apply. In addition to the employee exception in section 7-1-1001(11) (2003), the exceptions contained in sections 7-1-1001(3), (4), (5), (6), (8), (12), (13) and (14) (2003) appear to apply to any natural person. However, these exceptions do not apply to individuals who are brokering mortgage loans for licensed mortgage brokers. In short, Shedonna Daniel was transacting business in this state as a mortgage broker in violation of Georgia Code section 7-1-1002(a) (2003). As the documents with Ms. Daniel's name were found in the Neal loan file at Citizens First's place of business, Citizens First knew or should have known with the exercise of reasonable care that Shedonna Daniel processed Mr. Neal's loan. See O.C.G.A. § 7-1-1002(c)(2003).

**Citizens First Violated Georgia Code Section 7-1-1002 (2003)
by Allowing Eric Ward to Broker a Mortgage Loan.**

7.

As part of the examination, the Department reviewed, at Citizens First's place of business, the loan file of Teadric Roman Cummings for the property located at 8275 Englewood Trail, Riverdale, Georgia 30274. The loan application indicates that it was taken by Citizens First. The Department also discovered in Mr. Cummings' loan file a Request for Verification of

Employment. The Request for Verification of Employment indicates that it was sent to Mr. Cummings' employer by Eric Ward at Citizens First. In addition, the Department discovered in Mr. Cummings' loan file a Request for Appraisal. The Request for Appraisal indicates that it was sent to an appraisal company by Eric Ward at Citizens First. Finally, the Department discovered in Mr. Cummings' loan file a settlement statement from the closing of Mr. Cummings' loan. The loan was funded by Freedom Mortgage Corporation on July 2, 2007. The settlement statement reveals that Citizens First was paid a processing fee of \$500.00 from the closing of Mr. Cummings' loan.

8.

In the Officer's Questionnaire provided to the Department, Eric Ward is not listed as an employee of Citizens First. Although not listed as an employee, Eric Ward acted as a mortgage broker on behalf of Citizens First. Eric Ward is not licensed or registered with the Department as a mortgage broker or mortgage lender. In fact, Eric Ward has never been individually licensed or registered with the Department as a mortgage lender or mortgage broker. Section 7-1-1000(11) (1996) defines "mortgage broker" as "any person who directly or indirectly solicits, processes, places, or negotiates mortgage loans for others." Eric Ward processed Ms. Cummings' mortgage loan by obtaining a Verification of Employment and by submitting a Request for Appraisal for a loan that was brokered by Citizens First and ultimately funded by Freedom Mortgage Corporation.

9.

Eric Ward does not satisfy any of the exemptions from licensure contained in section 7-1-1001 (2003). Pursuant to section 7-1-1001(11) (2003), employees of licensees are exempt from licensure. However, Citizens First has informed the Department that Eric Ward was not an employee of Citizens First, and, therefore, this exception does not apply. In addition to the

16.

Section 7-1-1002(c) (2003) makes it a violation of law for a licensee to directly or indirectly control an individual that violates section 7-1-1002(a) (2003). Citizens First violated section 7-1-1002(c) (2003) when it directly or indirectly controlled Shedonna Daniel, Eric Ward, and Calvin Wheeler, each of whom violated section 7-1-1002(a) (2003). To avail itself of the licensure exception for employees, Citizens First had a duty to supervise its employees on a daily basis. See Ga. Comp. R. & Regs. r. 80-11-4-.03(2)(c). Because the documents evidencing the involvement of Daniel, Ward, and Wheeler were found at Citizens First's place of business, it is clear that Citizens First did not supervise its employees on a daily basis. Furthermore, Citizens First is responsible for the actions of its employees. Id. Thus, even if other individuals actually employed by Citizens First allowed the non-employees to process or broker loans, Citizens First is responsible. Given the clear lack of supervision and oversight of its business, the undersigned concludes that the Department's order revoking Citizens First's license is proper.

17.

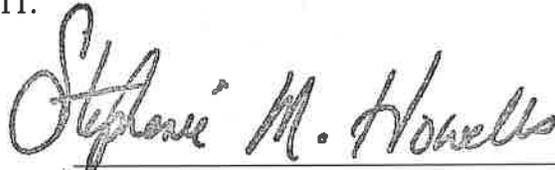
As the 100% owner and president of Citizens First, Ms. Rumph violated section 7-1-1002(c) (2003) to the "same extent" as Citizens First. Accordingly, the undersigned concludes that the Cease and Desist Order issued to Cynthia Rumph was also proper.

Decision

Based on the undisputed material facts, Petitioners Citizens First and Cynthia Rumph violated Georgia Code section 7-1-1002(c) (2003). The Department's motions for summary determination are **GRANTED**. The license of Citizens First is hereby **REVOKED**, and the Cease and Desist Order issued to Cynthia Rumph is **UPHELD**. This matter is hereby removed from the December 5, 2011 calendar and **DISMISSED**.

The Department's pending motions for continuance are **DENIED** as moot.

This 21st day of November, 2011.

Handwritten signature of Stephanie M. Howells in cursive script.

STEPHANIE M. HOWELS
Administrative Law Judge



Department of Banking and Finance

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Sonny Perdue
Governor

Robert M. Braswell
Commissioner

June 11, 2009

VIA CERTIFIED MAIL – 7055 1820 0006 4358 8481

Ms. Cynthia Rumph
Citizens First Mortgage Solutions, Inc.
2330 Scenic Hwy, Ste 111
Snellville, GA 30078

FILED

JAN 06 2012

GEORGIA DEPARTMENT OF
BANKING AND FINANCE

ORDER TO CEASE AND DESIST

Pursuant to O.C.G.A. § 7-1-1018(a), the Georgia Department of Banking and Finance (“Department”) hereby orders you, Cynthia Rumph, to cease and desist from engaging in activities in violation of the Georgia Residential Mortgage Act (“GRMA”), O.C.G.A. § 7-1-1000 *et seq.* Specifically, the Department has evidence that you made false statements or material misrepresentations to the Department in violation of O.C.G.A. § 7-1-1013(11); made false statements or misrepresented material facts to lenders in violation of O.C.G.A. § 7-1-1013(1),(2) and (6); failed to properly maintain a mortgage loan transaction journal in violation of Department Rule 80-11-2-.03; and, transacted business in violation of O.C.G.A. § 7-1-1002(a) and (b) with a person who is unlicensed and unregistered, not exempt from licensing and registration requirements and who is not an employee of a mortgage broker or lender. Further, in violation of O.C.G.A. § 7-1-1002(c), you directly or indirectly controlled a person who violated O.C.G.A. § 7-1-1002(a) and (b).

Pursuant to the provisions of O.C.G.A. § 7-1-1018, you may request a hearing to contest this Order. The hearing will be held before an administrative law judge of the Office of State Administrative Hearings. You may retain counsel of your choice and subpoena witnesses and documentary evidence. The Office of the Attorney General will represent the Department.

The request for a hearing must be made in writing within twenty days of the date of this Order. Please be advised that if you do not request a hearing in writing within twenty days of the date of this Order, this Order shall become a final order. As a result, a licensed mortgage broker or mortgage lender will be prohibited from employing you for a period of five years to perform any functions governed by the GRMA. O.C.G.A. § 7-1-1004. This restriction in no way prohibits you from engaging in business with a mortgage broker or mortgage lender that is not licensed or required to be licensed by this Department. Should you have any questions concerning this matter, please contact Felicia Faison-Holmes, Non-Depository Financial Institutions Division Attorney, at (770) 986-1648.

Rod Carnes, CFE

Deputy Commissioner

Non-Depository Financial Institutions Division



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Sonny Perdue
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June 11, 2009

VIA CERTIFIED MAIL – 7055 1820 0006 4358 8481

Ms. Cynthia Rumph
Citizens First Mortgage Solutions, Inc.
2330 Scenic Hwy, Ste 111
Snellville, GA 30078

License No. 15287

FILED

JAN 06 2012

GEORGIA DEPARTMENT OF
BANKING AND FINANCE

NOTICE OF INTENT TO REVOKE ANNUAL LICENSE

Pursuant to O.C.G.A. § 7-1-1017(a)(1), the Georgia Department of Banking and Finance (“Department”) hereby notifies you of its intent to revoke the license issued to Citizens First Mortgage Solutions, Inc. The Department has evidence showing that Citizens First Mortgage Solutions, Inc. violated the Georgia Residential Mortgage Act (“GRMA”), O.C.G.A. § 7-1-1000 *et seq.* Specifically, the Department has evidence that Citizens First Mortgage Solutions, Inc. made false statements or material misrepresentations to the Department in violation of O.C.G.A. § 7-1-1013(11); made false statements or misrepresented material facts to lenders in violation of O.C.G.A. § 7-1-1013(1),(2) and (6); failed to properly maintain a mortgage loan transaction journal in violation of Department Rule 80-11-2-.03; and, transacted business in violation of O.C.G.A. § 7-1-1002(a) and (b) with a person who is unlicensed and unregistered, not exempt from licensing and registration requirements and who is not an employee of a mortgage broker or lender. Further, in violation of O.C.G.A. § 7-1-1002(c), Citizens First Mortgage Solutions, Inc. directly or indirectly controlled a person who violated O.C.G.A. § 7-1-1002(a) and (b).

You may request a hearing to contest the decision of the Department to revoke your license. O.C.G.A. § 7-1-1017(b). The hearing will be held before an administrative law judge of the Office of State Administrative Hearings. You may retain counsel of your choice and subpoena witnesses and documentary evidence. The Office of the Attorney General will represent the Department.

The request for a hearing must be made in writing within 20 days of the date of this Notice. If you do not request a hearing within 20 days of the date of this Notice, the Department will enter a Final Order of Revocation that will be effective the date of issuance. Should you have any questions concerning this matter, please contact Felicia Faison-Holmes, Non-Depository Financial Institutions Division Attorney, at (770) 986-1648.

Rod Carnes, CFE

Deputy Commissioner

Non-Depository Financial Institutions Division